

### **REMARKS**

After entry of the present amendment, claims 1 through 9 remain pending in the application with claim 1 written in independent form. The claims are unchanged.

Claims 1-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,361,126 to Pueschel et al. in view of United States Patent Nos. 6,276,762 to Katinas et al. and 6,174,033 to Busch et al. However, it is unclear from the rejection whether the Examiner is rejecting claims 1-9 over Pueschel et al. in view of Katinas et al. AND Busch et al. or whether claims 1-9 are rejected over Pueschel et al. in view of Katinas et al. OR Busch et al. Clarification of this rejection is requested.

In previous rejections, the Examiner utilized Pueschel et al. with Itoh et al. and Kollers et al. or Busch et al. and stated that it was obvious to apply the teachings of Itoh et al. and Kollers et al. or Busch et al. to the device of Peuschel et al. After an Appeal Brief was filed, prosecution was reopened and the Examiner has replaced Itoh et al. and Kollers et al. with Katinas et al. in an attempt to show when the pump is shut off.

The Examiner states that Peuschel et al. discloses a brake system similar to the Applicant's. The Examiner also states that Peuschel et al. fails to specifically mention when the pump is shut off and restated that it was obvious to apply the teachings of Busch et al. to the device of Peuschel et al. As set forth below, Applicant contends that the Examiner has misinterpreted Katinas et al. and continues to misinterpret Busch et al.

With respect to Katinas et al., the Examiner contends that in column 3, lines 1-15 that noise may be reduced by controlling operation of the pump to shut off **prior to** the valve pulsing routine. However, the Applicant notes that in column 3, lines 1-20, Katinas actually discloses that noise is masked by turning the "pump motor off **simultaneously with** the end of the apply valve pulse routine." (emphasis added) Katinas teaches away from the present invention by failing to disclose, teach, or suggest discontinuing the pumping during the controlled brake event, prior to the fluid pressure in the first fluid line reaching the predetermined pressure, and prior to the bypass-isolation valve opening as claimed. Instead,

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the present invention discloses combining the pumping with the apply valve pulse routine and discontinuing pumping at the end of the apply valve pulse routine and NOT discontinuing pumping before the predetermined pressure is reached. As such, the Examiner continues to misinterpret Busch et al.

With respect to Busch et al., the Examiner has restated that in column 2, lines 24-32, noise control is effected by “adjusting the driving of the pump to the position of the shut off (valve) device.” Additionally, the Examiner contends that Busch et al. recognizes that noise is created due to the pulsations that result when the pressurized medium is delivered against closed valves or valves that open in a manner not compatible with the delivery rate of the pump. The Examiner has once again misinterpreted Busch et al. As mentioned in the Appeal Brief, while Busch et al. mentions delivering pressurized fluid to valves in a manner not compatible with the delivery rate, the statement is silent about the “opening/closing characteristics of particular valves.” As also mentioned in the Appeal Brief, Busch et al. teaches that the pump is switched off after at least one of the selector valves 205 or 205a is open or not completely closed. Therefore, Busch et al. fails to disclose, teach, or suggest discontinuing the pumping during the controlled brake event prior to the fluid pressure in the first fluid line reaching the predetermined pressure and prior to the bypass-isolation valve opening and prior to completion of the controlled brake event as claimed. Instead, Busch et al. discloses varying the pump delivery rates based on the specific position of the valves and the prevailing pressure ratios and NOT discontinuing pumping while the valve is still closed and before the predetermined pressure is reached.

It is further unclear why the Examiner mentioned Itoh et al. in the first paragraph on page four of the Detailed Action. Clarification as to the relevance of Itoh et al. in this rejection is requested as Itoh et al. was not mentioned as being part of the present rejection.

For the reasons set forth above, the Applicant respectfully submits that claims 1-9 are in condition for allowance, which allowance is respectfully solicited. The Applicant believes that no fees are required; however, the Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys, P.C. for any fees or credit

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the account for any overpayment.

Respectfully submitted,

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